

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

SARAH RACHAEL SIMON

Applicant for Registered Nurse License

Respondent

Case No. 2012 –624

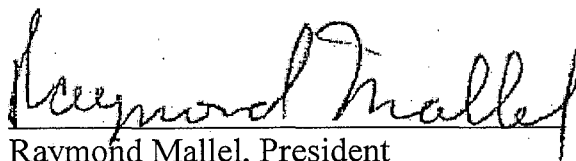
OAH No. 2012050545

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on **November 30, 2012.**

IT IS SO ORDERED **October 31, 2012.**



Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
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7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues
Against:

13 **SARAH RACHAEL SIMON**

14 Applicant.

Case No. 2012-624

OAH No. 2012050545

15 **STIPULATED SETTLEMENT AND**
16 **DISCIPLINARY ORDER**

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 PARTIES

20 1. Louise R. Bailey, M.Ed., RN ("Complainant") is the Interim Executive Officer of the
21 Board of Registered Nursing. She brought this action solely in her official capacity and is
22 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by
23 Judith J. Loach, Deputy Attorney General.

24 2. Applicant Sarah Rachael Simon ("Applicant") is represented in this proceeding by
25 attorney Ivan Weinberg, Esq., whose address is: Weinberg, Hoffman, LLP, 700 Larkspur
26 Landing Circle, Suite 252, Larkspur, California 94939.

27 ///

3. On or about July 22, 2011, Applicant filed an application dated July 22, 2011, with the Board of Registered Nursing to obtain a Registered Nursing License.

JURISDICTION

4. Statement of Issues No. 2012-624 was filed before the Board of Registered Nursing ("Board"), Department of Consumer Affairs, and is currently pending against Applicant. The Statement of Issues and all other statutorily required documents were properly served on Applicant on April 19, 2012. A copy of Statement of Issues No. 2012-624 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Applicant has carefully read, fully discussed with counsel, and understands the charges and allegations in Statement of Issues No. 2012-624. Applicant has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Applicant is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Statement of Issues; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Applicant voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Applicant admits the truth of each and every charge and allegation in Statement of Issues No. 2012-624.

CONTINGENCY

9. This stipulation shall be subject to approval by the Board of Registered Nursing.

Applicant understands and agrees that counsel for Complainant and the staff of the Board of

1 Registered Nursing may communicate directly with the Board regarding this stipulation and
2 settlement, without notice to or participation by Applicant or her counsel. By signing the
3 stipulation, Applicant understands and agrees that she may not withdraw her agreement or seek to
4 rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to
5 adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order
6 shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
7 between the parties, and the Board shall not be disqualified from further action by having
8 considered this matter.

9 10. The parties understand and agree that facsimile copies of this Stipulated Settlement
10 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
11 effect as the originals.

12 11. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
13 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
14 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
15 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
16 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
17 writing executed by an authorized representative of each of the parties.

18 12. In consideration of the foregoing admissions and stipulations, the parties agree that
19 the Board may, without further notice or formal proceeding, issue and enter the following
20 Disciplinary Order:

21 **DISCIPLINARY ORDER**

22 **IT IS HEREBY ORDERED** that:

23 The application of Sarah Rachael Simon for licensure is hereby granted. Upon successful
24 completion of the licensure examination and all other licensing requirements, a license shall be
25 issued to Applicant. Said license shall immediately be revoked, the order of revocation stayed and
26 Applicant placed on probation for a period of three (3) years on the following conditions:

27 **Severability Clause.** Each condition of probation contained herein is a separate and
28 distinct condition. If any condition of this Order, or any application thereof, is declared

unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

1. Obey All Laws. Applicant shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by Applicant to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, Applicant shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

Criminal Court Orders: If Applicant is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

2. Comply with the Board's Probation Program. Applicant shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the Applicant's compliance with the Board's Probation Program. Applicant shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

Upon successful completion of probation, Applicant's license shall be fully restored.

3. Report in Person. Applicant, during the period of probation, shall appear in person at interviews/meetings as directed by the Board or its designated representatives.

4. Residency, Practice, or Licensure Outside of State. Periods of residency or practice as a registered nurse outside of California shall not apply toward a reduction of this probation time period. Applicant's probation is tolled, if and when she resides outside of California. Applicant must provide written notice to the Board within 15 days of any change of residency or practice outside the state, and within 30 days prior to re-establishing residency or returning to practice in this state.

Applicant shall provide a list of all states and territories where she has ever been licensed as

1 a registered nurse, vocational nurse, or practical nurse. Applicant shall further provide
2 information regarding the status of each license and any changes in such license status during the
3 term of probation. Applicant shall inform the Board if she applies for or obtains a new nursing
4 license during the term of probation.

5 **5. Submit Written Reports.** Applicant, during the period of probation, shall submit or
6 cause to be submitted such written reports/declarations and verification of actions under penalty
7 of perjury, as required by the Board. These reports/declarations shall contain statements relative
8 to Applicant's compliance with all the conditions of the Board's Probation Program. Applicant
9 shall immediately execute all release of information forms as may be required by the Board or its
10 representatives.

11 Applicant shall provide a copy of this Decision to the nursing regulatory agency in every
12 state and territory in which she has a registered nurse license.

13 **6. Function as a Registered Nurse.** Applicant, during the period of probation, shall
14 engage in the practice of registered nursing in California for a minimum of 24 hours per week for
15 6 consecutive months or as determined by the Board.

16 For purposes of compliance with the section, "engage in the practice of registered nursing"
17 may include, when approved by the Board, volunteer work as a registered nurse, or work in any
18 non-direct patient care position that requires licensure as a registered nurse.

19 The Board may require that advanced practice nurses engage in advanced practice nursing
20 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

21 If Applicant has not complied with this condition during the probationary term, and
22 Applicant has presented sufficient documentation of her good faith efforts to comply with this
23 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
24 extension of Applicant's probation period up to one year without further hearing in order to
25 comply with this condition. During the one year extension, all original conditions of probation
26 shall apply.

27 **7. Employment Approval and Reporting Requirements.** Applicant shall obtain prior
28 approval from the Board before commencing or continuing any employment, paid or

1 voluntary, as a registered nurse. Applicant shall cause to be submitted to the Board all
2 performance evaluations and other employment related reports as a registered nurse upon
3 request of the Board.

4 Applicant shall provide a copy of this Decision to her employer and immediate supervisors
5 prior to commencement of any nursing or other health care related employment.

6 In addition to the above, Applicant shall notify the Board in writing within seventy-two
7 (72) hours after she obtains any nursing or other health care related employment. Applicant shall
8 notify the Board in writing within seventy-two (72) hours after she is terminated or separated,
9 regardless of cause, from any nursing, or other health care related employment with a full
10 explanation of the circumstances surrounding the termination or separation.

11 **8. Supervision.** Applicant shall obtain prior approval from the Board regarding
12 Applicant's level of supervision and/or collaboration before commencing or continuing any
13 employment as a registered nurse, or education and training that includes patient care.

14 Applicant shall practice only under the direct supervision of a registered nurse in good
15 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods
16 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are
17 approved.

18 Applicant's level of supervision and/or collaboration may include, but is not limited to the
19 following:

20 (a) Maximum - The individual providing supervision and/or collaboration is present in
21 the patient care area or in any other work setting at all times.

22 (b) Moderate - The individual providing supervision and/or collaboration is in the patient
23 care unit or in any other work setting at least half the hours Applicant works.

24 (c) Minimum - The individual providing supervision and/or collaboration has person-to-
25 person communication with Applicant at least twice during each shift worked.

26 (d) Home Health Care - If Applicant is approved to work in the home health care setting,
27 the individual providing supervision and/or collaboration shall have person-to-person
28 communication with Applicant as required by the Board each work day. Applicant shall maintain

1 telephone or other telecommunication contact with the individual providing supervision and/or
2 collaboration as required by the Board during each work day. The individual providing
3 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to
4 patients' homes visited by Applicant with or without Applicant present.

5 **9. Employment Limitations.** Applicant shall not work for a nurse's registry, in any
6 private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse,
7 or for an in-house nursing pool.

8 Applicant shall not work for a licensed home health agency as a visiting nurse unless the
9 registered nursing supervision and other protections for home visits have been approved by the
10 Board. Applicant shall not work in any other registered nursing occupation where home visits are
11 required.

12 Applicant shall not work in any health care setting as a supervisor of registered nurses. The
13 Board may additionally restrict Applicant from supervising licensed vocational nurses and/or
14 unlicensed assistive personnel on a case-by-case basis.

15 Applicant shall not work as a faculty member in an approved school of nursing or as an
16 instructor in a Board approved continuing education program.

17 Applicant shall work only on a regularly assigned, identified and predetermined worksite(s)
18 and shall not work in a float capacity.

19 If Applicant is working or intends to work in excess of 40 hours per week, the Board may
20 request documentation to determine whether there should be restrictions on the hours of work.

21 **10. Complete a Nursing Course(s).** Applicant, at her own expense, shall enroll and
22 successfully complete a course(s) relevant to the practice of registered nursing no later than six
23 months prior to the end of her probationary term.

24 Applicant shall obtain prior approval from the Board before enrolling in the course(s).
25 Applicant shall submit to the Board the original transcripts or certificates of completion for the
26 above required course(s). The Board shall return the original documents to Applicant after
27 photocopying them for its records.

28 **11. Violation of Probation.** If Applicant violates the conditions of her probation, the

1 Board after giving Applicant notice and an opportunity to be heard, may set aside the stay order
2 and impose the stayed discipline (revocation/suspension) of Applicant's license.

3 If during the period of probation, an accusation or petition to revoke probation has been
4 filed against Applicant's license or the Attorney General's Office has been requested to prepare
5 an accusation or petition to revoke probation against Applicant's license, the probationary period
6 shall automatically be extended and shall not expire until the accusation or petition has been acted
7 upon by the Board.

8 **12. License Surrender.** During Applicant's term of probation, if she ceases practicing
9 due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation,
10 Applicant may surrender her license to the Board. The Board reserves the right to evaluate
11 Applicant's request and to exercise its discretion whether to grant the request, or to take any
12 other action deemed appropriate and reasonable under the circumstances, without further hearing.
13 Upon formal acceptance of the tendered license and wall certificate, Applicant will no longer be
14 subject to the conditions of probation.

15 Surrender of Applicant's license shall be considered a disciplinary action and shall become
16 a part of Applicant's license history with the Board. A registered nurse whose license has been
17 surrendered may petition the Board for reinstatement no sooner than the following minimum
18 periods from the effective date of the disciplinary decision:

19 (1) Two years for reinstatement of a license that was surrendered for any reason other
20 than a mental or physical illness; or

21 (2) One year for a license surrendered for a mental or physical illness.

22 **13. Physical Examination.** Within 45 days of the effective date of this Decision,
23 Applicant, at her expense, shall have a licensed physician, nurse practitioner, or physician
24 assistant, who is approved by the Board before the assessment is performed, submit an
25 assessment of the Applicant's physical condition and capability to perform the duties of a
26 registered nurse, including a determination as set forth below in the condition titled "Rule-Out
27 Substance Abuse Assessment." Such an assessment shall be submitted in a format acceptable to
28 the Board. If medically determined, a recommended treatment program will be instituted and

1 followed by the Applicant with the physician, nurse practitioner, or physician assistant providing
2 written reports to the Board on forms provided by the Board.

3 If Applicant is determined to be unable to practice safely as a registered nurse, the licensed
4 physician, nurse practitioner, or physician assistant making this determination shall immediately
5 notify the Board and Applicant by telephone, and the Board shall request that the Attorney
6 General's office prepare an accusation or petition to revoke probation. Applicant shall
7 immediately cease practice and shall not resume practice until notified by the Board. During this
8 period of suspension, Applicant shall not engage in any practice for which a license issued by the
9 Board is required until the Board has notified Applicant that a medical determination permits
10 Applicant to resume practice. This period of suspension will not apply to the reduction of this
11 probationary time period.

12 If Applicant fails to have the above assessment submitted to the Board within the 45-day
13 requirement, Applicant shall immediately cease practice and shall not resume practice until
14 notified by the Board. This period of suspension will not apply to the reduction of this
15 probationary time period. The Board may waive or postpone this suspension only if significant,
16 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
17 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
18 Only one such waiver or extension may be permitted.

19 **14. Participate in Treatment/Rehabilitation Program for Chemical Dependence.**

20 Applicant, at her expense, shall successfully complete during the probationary period or shall
21 have successfully completed prior to commencement of probation a Board-approved
22 treatment/rehabilitation program of at least six months duration. As required, reports shall be
23 submitted by the program on forms provided by the Board. If Applicant has not completed a
24 Board-approved treatment/rehabilitation program prior to commencement of probation,
25 Applicant, within 45 days from the effective date of the decision, shall be enrolled in a program.
26 If a program is not successfully completed within the first nine months of probation, the Board
27 shall consider Applicant in violation of probation.

28 Based on Board recommendation, each week Applicant shall be required to attend at least

one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board. If a nurse support group is not available, an additional 12-step meeting or equivalent shall be added. Applicant shall submit dated and signed documentation confirming such attendance to the Board during the entire period of probation. Applicant shall continue with the recovery plan recommended by the treatment/rehabilitation program or a licensed mental health examiner and/or other ongoing recovery groups.

15. Abstain from Use of Psychotropic (Mood-Altering) Drugs. Applicant shall completely abstain from the possession, injection or consumption by any route of all controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a health care professional legally authorized to do so as part of documented medical treatment. Applicant shall have sent to the Board, in writing and within fourteen (14) days, by the prescribing health professional, a report identifying the medication, dosage, the date the medication was prescribed, the Applicant's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

Applicant shall identify for the Board a single physician, nurse practitioner or physician assistant who shall be aware of Applicant's history of substance abuse and will coordinate and monitor any prescriptions for Applicant for dangerous drugs, controlled substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report to the Board on a quarterly basis Applicant's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances.

The Board may require the single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.

16. Submit to Tests and Samples. Applicant, at her expense, shall participate in a random, biological fluid testing or a drug screening program which the Board approves. The length of time and frequency will be subject to approval by the Board. Applicant is responsible

1 for keeping the Board informed of Applicant's current telephone number at all times. Applicant
2 shall also ensure that messages may be left at the telephone number when she is not available and
3 ensure that reports are submitted directly by the testing agency to the Board, as directed. Any
4 confirmed positive finding shall be reported immediately to the Board by the program and
5 Applicant shall be considered in violation of probation.

6 In addition, Applicant, at any time during the period of probation, shall fully cooperate with
7 the Board or any of its representatives, and shall, when requested, submit to such tests and
8 samples as the Board or its representatives may require for the detection of alcohol, narcotics,
9 hypnotics, dangerous drugs, or other controlled substances.

10 If Applicant has a positive drug screen for any substance not legally authorized and not
11 reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board
12 files a petition to revoke probation or an accusation, the Board may suspend Applicant from
13 practice pending the final decision on the petition to revoke probation or the accusation. This
14 period of suspension will not apply to the reduction of this probationary time period.

15 If Applicant fails to participate in a random, biological fluid testing or drug screening
16 program within the specified time frame, Applicant shall immediately cease practice and shall not
17 resume practice until notified by the Board. After taking into account documented evidence of
18 mitigation, if the Board files a petition to revoke probation or an accusation, the Board may
19 suspend Applicant from practice pending the final decision on the petition to revoke probation or
20 the accusation. This period of suspension will not apply to the reduction of this probationary time
21 period.

22 **17. Mental Health Examination.** Applicant shall, within 45 days of the effective date
23 of this Decision, have a mental health examination including psychological testing as appropriate
24 to determine her capability to perform the duties of a registered nurse. The examination will be
25 performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by
26 the Board. The examining mental health practitioner will submit a written report of that
27 assessment and recommendations to the Board. All costs are the responsibility of Applicant.
28 Recommendations for treatment, therapy or counseling made as a result of the mental health

1 examination will be instituted and followed by Applicant.

2 If Applicant is determined to be unable to practice safely as a registered nurse, the licensed
3 mental health care practitioner making this determination shall immediately notify the Board and
4 Applicant by telephone, and the Board shall request that the Attorney General's office prepare an
5 accusation or petition to revoke probation. Applicant shall immediately cease practice and may
6 not resume practice until notified by the Board. During this period of suspension, Applicant shall
7 not engage in any practice for which a license issued by the Board is required, until the Board has
8 notified Applicant that a mental health determination permits Applicant to resume practice. This
9 period of suspension will not apply to the reduction of this probationary time period.

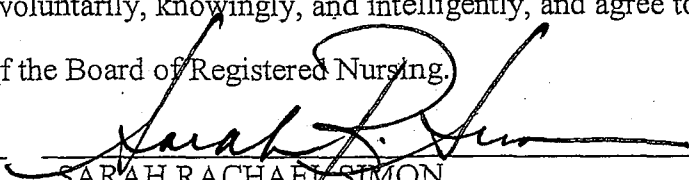
10 If Applicant fails to have the above assessment submitted to the Board within the 45-day
11 requirement, Applicant shall immediately cease practice and shall not resume practice until
12 notified by the Board. This period of suspension will not apply to the reduction of this
13 probationary time period. The Board may waive or postpone this suspension only if significant,
14 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
15 by Applicant to obtain the assessment, and a specific date for compliance must be provided. Only
16 one such waiver or extension may be permitted.

17 **18. Therapy or Counseling Program.** Applicant, at her expense, shall participate in
18 an on-going counseling program until such time as the Board releases her from this requirement
19 and only upon the recommendation of the counselor. Written progress reports from the counselor
20 will be required at various intervals.

21 ACCEPTANCE

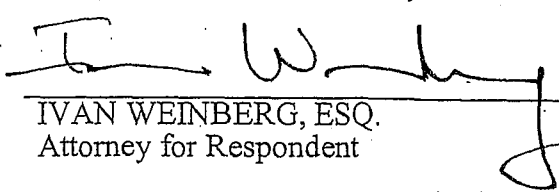
22 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
23 discussed it with my attorney, Ivan Weinberg, Esq. I understand the stipulation and the effect it
24 will have on my application licensure and Registered Nurse license. I enter into this Stipulated
25 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
26 bound by the Decision and Order of the Board of Registered Nursing.

27 DATED: 7/5/2012

28 
SARAH RACHAEL SIMON
Applicant

1 I have read and fully discussed with Applicant Sarah Rachael Simon the terms and
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
3 I approve its form and content.

4 DATED: 7/12/12


IVAN WEINBERG, ESQ.
Attorney for Respondent

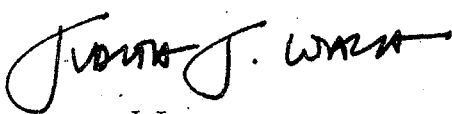
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7 ENDORSEMENT

8 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
9 submitted for consideration by the Board of Registered Nursing of the Department of Consumer
10 Affairs.

11 Dated: 7-19-2012

Respectfully submitted,

12 KAMALA D. HARRIS
13 Attorney General of California
14 FRANK H. PACOE
15 Supervising Deputy Attorney General



16 JUDITH J. LOACH
17 Deputy Attorney General
18 *Attorneys for Complainant*

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20 40557416.doc
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Exhibit A

Statement of Issues No. 2012-624

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JUDITH J. LOACH
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7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues
Against:

13 **SARAH RACHAEL SIMON**

14 Applicant.

Case No. 2012-624

15 **STATEMENT OF ISSUES**

16 Complainant alleges:

17 PARTIES

18 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Statement of Issues solely
19 in her official capacity as the Interim Executive Officer of the Board of Registered Nursing.

20 2. On or about July 22, 2011, the Board of Registered Nursing received an application
21 for a Registered Nurse License from Sarah Rachael Simon ("Applicant"). On or about July 22,
22 2011, Sarah Rachael Simon certified under penalty of perjury to the truthfulness of all statements,
23 answers, and representations in the application. The Board denied the application on October 13,
24 2011.

25 JURISDICTION

26 3. This Statement of Issues is brought before the Board of Registered Nursing
27 ("Board"), Department of Consumer Affairs under the authority of the following laws. All
28 section references are to the Business and Professions Code ("Code") unless otherwise indicated.

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1 deemed to be a conviction within the meaning of this article. The board may order the license or
2 certificate suspended or revoked, or may decline to issue a license or certificate, when the time
3 for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an
4 order granting probation is made suspending the imposition of sentence, irrespective of a
5 subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person
6 to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict
7 of guilty, or dismissing the accusation, information or indictment.”

8 7. Section 480 of the Code states:

9 "(a) A board may deny a license regulated by this code on the grounds that the applicant has
10 one of the following:

11 "(1) Been convicted of a crime. A conviction within the meaning of this section means a
12 plea or verdict of guilty or a conviction following a plea of *nolo contendere*. Any action that a
13 board is permitted to take following the establishment of a conviction may be taken when the
14 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when
15 an order granting probation is made suspending the imposition of sentence, irrespective of a
16 subsequent order under the provisions of Section 1203.4 of the Penal Code.

17 "(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially
18 benefit himself or herself or another, or substantially injure another.

19 "(3) (A) Done any act that if done by a licentiate of the business or profession in question,
20 would be grounds for suspension or revocation of license.

21 "(B) The board may deny a license pursuant to this subdivision only if the crime or act is
22 substantially related to the qualifications, functions, or duties of the business or profession for
23 which application is made.”

24 ...

25 FIRST CAUSE FOR DENIAL OF LICENSE APPLICATION

26 (Criminal Convictions)

27 8. Applicant's registered nurse license application is subject to denial under Code
28 sections 2761(a) and (f), 2762 (c), 2765, and 480 (a)(1), based on the following:

1 a. On or about May 26, 1998, Applicant pled guilty and/or pled nolo to violations of
2 Health and Safety Code section 11377(a) [Unauthorized Possession of a Controlled Substances –
3 Methamphetamine and Marijuana], as a misdemeanor in the case of *People of the State of*
4 *California v. Sarah Rachael Simon*, Marin County Superior Court Case No. CR098788A.
5 Applicant was placed on three (3) years probation, required to register pursuant to Health and
6 Safety Code section 11590, ordered to complete a drug treatment program and to pay a \$100.00
7 restitution fine.

8 The circumstances in support of this plea are as follows: On or about September 23, 1997,
9 Applicant was a passenger in a vehicle stopped for a traffic violation in Novato, California.
10 Applicant's purse was searched and found to contain methamphetamine and marijuana. On
11 October 1, 1997, Applicant was the driver of a vehicle stopped by the San Rafael police. A
12 search of her purse was found to contain methamphetamine.

13 On or about September 25, 2006, Applicant's convictions were set aside and dismissed
14 pursuant to Penal Code section 1203.4.

15 b. On or about May 7, 1999, Applicant was placed on probation for five (5) years
16 related to her plea of guilty to three (3) counts of violating Health and Safety Code section 11379
17 [Transportation, Sale or Furnishing a Controlled Substance - Methamphetamine], as a felony in
18 the case of *People of the State of California v. Sarah Rachael Simon*, Marin County Superior
19 Court Case No. SC106748A. Applicant was placed on five (5) years probation, ordered to
20 register pursuant to Health and Safety Code section 11590, to complete a drug treatment program
21 and to pay a \$400.00 restitution fine.

22 The circumstances in support of this plea are as follows: In October 1998, Applicant was
23 observed selling methamphetamines on four (4) occasions to a confidential informant with the
24 Marin County Sheriff's Department.

25 On or about September 25, 2006, Applicant's conviction was set aside and dismissed
26 pursuant to Penal Code section 1203.4.

27 c. On or about September 1, 2000, Applicant was placed on probation for five (5) years
28 related to her plea of guilty to a violation of Health and Safety Code section 11379

1 [Transportation, Sale or Furnishing a Controlled Substance - Methamphetamine], as a felony in
2 the case of *People of the State of California v. Sarah Rachael Simon*, Marin County Superior
3 Court Case No. SC114336A. On June 1, 2001, Applicant was ordered to six (6) months in the
4 county jail for violation of the terms of probation.

5 The circumstances in support of this plea are as follows: On March 30, 2000, the Marin
6 County Sheriff's Department was informed that Applicant was a supplier of methamphetamines.
7 An undercover officer arranged for and successfully purchased one (1) ounce of
8 methamphetamine from Applicant.

9 On or about September 22, 2006, Applicant's conviction was set aside and dismissed
10 pursuant to Penal Code section 1203.4.

11 d. On or about June 1, 2001, Applicant was placed on five (5) years probation related to
12 her plea of guilty to three (3) counts of Penal Code section 496 [Receipt of Stolen Property], as a
13 felony in the case of *People of the State of California v. Sarah Rachael Simon*, Marin County
14 Superior Court Case No. SC117734A. In addition to probation, Applicant was ordered to spend
15 six (6) months in the county jail and to pay a \$400 restitution fine.

16 The circumstances in support of this plea are as follows: Between August and October
17 2000, Applicant cashed thousands of dollars worth of forged checks from various victims and was
18 found to be in possession of stolen credit and social security cards. All criminal offenses were
19 committed in Novato, California.

20 On or about August 7, 2006, Applicant's conviction was set aside and dismissed pursuant
21 to Penal Code section 1203.4.

22 SECOND CAUSE FOR DENIAL OF LICENSE APPLICATION

23 (Unprofessional Conduct – Possession of Controlled Substances)

24 9. Applicant's registered nurse license application is subject to denial under Code
25 section 2761(a), 2762 (a), and 480 (a)(3)(A) based on her possession of methamphetamine and
26 marijuana as set forth above in paragraph 8, subsections (a), (b) and (c).

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